IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 2742 of 2000

to

FIRST APPEALNo 2758 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA
and
Hon'ble MR.JUSTICE J.R.VORA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

SPL.LAQ OFFICER

Versus

HIRABHAI CHEHORBHAI

Appearance:
Mr.Umesh Trivedi, learned A.G.P. for the appellants
MR A.J.PATEL for Respondents-claimants

CORAM : MR.JUSTICE M.R.CALLA
and
MR.JUSTICE J.R.VORA

Date of decision: 06/02/2001

COMMON ORAL JUDGEMENT

(Per : MR.JUSTICE M.R.CALLA)

This group of 17 First Appeals is directed against the common judgment and order dated 27.1.2000 passed by the 2nd Extra Assistant Judge & Special Judge (LAR), Ahmedabad (Rural) at Mirzapur in Land Acquisition Cases Nos.1316 to 1332 of 1996. In all these matters, the lands of village Shihor,Taluka Viramgam were sought to be acquired for the Goraiya Branch Canal Project. For this purpose Notification under Sec.4 was issued on 19.11.92 and the Notification under Sec.6 was issued on 16.7.93. The Land Acquisition Officer passed an order on 27.6.95 determining the rate of compensation at Rs.1.20 Ps. per sq.mt. for irrigated land and Rs.0.80 Ps. per sq.mt. for non irrigated land.The claimants claimed Rs.20/-- per sq.mt. The matter was taken to Reference Court and the Reference Court by the impugned order has decided the compensation to be paid at the rate of Rs.11.70 Ps. per sq.mt. for irrigated land and Rs.11.30 Ps. per sq.mt. for non irrigated land.

It is not in dispute that the impugned award is based on previous Award Exh.16 wherein the lands of village Chhaniyar were acquired and it is not in dispute that village Chhaniyar is adjoining to the village Shihor. In case of the lands, which were concerned in Exh.16 dated 30.3.90, the date of issue of the Notification under Sec.4 was 1.9.83. In case of the lands of village Chhaniyar the Reference Court had determined the rate of compensation to be Rs.4/-- per sq.mt. in addition to the rate of Rs.0.50 Ps. per sq.mt. granted by the Land Acquisition Officer,making the payable rate at Rs.4.50 Ps. per sq.mt. The other previous award, which has been relied upon, is Exh.17 relating to village Karshanpura, which is also a village adjoining to Shihor. These facts are not in dispute. The date of the issue of the Notification under Sec.4 in case of lands of village Karshanpura is 10.11.83. In this case the Land Acquisition Officer has granted the compensation at the rate of Rs.0.75 Ps. per sq.mt. and the Reference Court has determined the rate of compensation as Rs.5/-- per sq.mt. in addition to the rate of Rs.0.75 Ps. granted by the Land Acquisition Officer, making the payable rate at Rs.5.75 Ps. per sq.mt.

The only ground urged on behalf of the appellants is that the awards Exhs.16 and 17 are stale and in absence of any proof that there was a trend of increase

in the price in the market rate, the rate of compensation could not be determined by granting benefit of 10% increase per annum. This argument raised on behalf of the appellants in several other cases has not found favour and the the same has been rejected. In the case at hand the date of the issue of the Notification under Sec.4 is 19.11.92 and keeping in view the previous awards and the dates of the issue of Notifications under Sec.4 in those cases, the Reference Court has found that the market value comes out to be Rs.12/-- per sq.mt. and has ultimately came to the conclusion that the claimants were entitled to Rs.10.50 Ps. per sq.mt. as additional compensation of the acquired lands. If the additional compensation is Rs.10.50 Ps. per sq.mt. i.e. over and above Rs.1.20 Ps. per sq.mt. for irrigated land and Rs.0.80 per sq.mt. for non irrigated land, the payable rate of compensation comes out to be Rs.11.70 Ps. per sq.mt. for irrigated land and Rs.11.30 Ps. per sq.mt. for non irrigated land and this position is also conceded by the learned counsel for the respondents - claimants. The respondents - claimants are entitled to receive compensation accordingly.

In the facts and circumstances of the present cases we, therefore, do not find any merit to interfere with the impugned order, as has been passed in these cases. All these Appeals, therefore, fail and the same are hereby dismissed. Notice discharged. No order as to costs.

It is expected that the due amount shall be paid to the claimants within a period of three months from the date the certified copy of this order is served upon the concerned authority.

(M.R.Calla,J)

(J.R.Vora,J)